IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7408 OF 2004

Ratnakar Nanu Ramane & Ors. .. Petitioners.
Vs.
Subhash Krishna Ramane & Ors. .. Respondents.

Mr.H.S.Venegaonkar for the petitioners.
Mr.P.D.Dalvi for respondent no.9.
Mr.Arun Palekar for respondent nos.11 and 12.

CORAM : D.B.BHOSALE, J.

DATED : 8TH SEPTEMBER, 2004

P.C.:

. Heard Mr.Venegaokar, learned counsel for the petitioners, Mr.Dalvi, learned counsel for respondent no.9 and Mr.Palekar, learned A.G.P. for respondent nos.11 and 12.

2. The petitioners have impugned the order dated 6.8.2004 passed by the Divisional Joint Registrar by which the order passed by the Assistant Registrar dated 22.7.2004 has been quashed and set aside and the matter is remanded for hearing afresh. The operative part of the order reads thus:

. "The Appeal is hereby partly

allowed.

. The impugned order dated 22.7.2004 passed by Respondent No.1 is hereby quashed and set aside.

. The matter is remanded back for a fresh trial with direction to the Respondent No.1. The Respondent No.1 is hereby directed to decide the matter within 2 months from the date of this order with sufficient opportunity of being heard to the all necessary parties as per order passed by Hon'ble High Court No. W.P.No.19824/04 with effective and meaningful consultation with the Federal Society".

3. Mr.Venegaonkar, learned counsel for the petitioners submits that the Divisional Joint Registrar has misread the order of this court passed in Writ Petition No.5997 of 2004. There was no direction in the said order to give hearing to respondent nos.1 to 4. Mr.Venegaonkar further submits that respondent nos.1 to 4 were never members of the Managing Committee and, therefore,

notice under section 78 of the Maharashtra Co-operative Societies Act, 1960 (for short "the Act") to them was not necessary. On the other hand the learned counsel for the respondent controverted the said assertion and contended that they would be necessary parties to the proceedings. I do not wish to enter into the controversy whether or not respondent nos.1 to 4 are the members of the Managing Committee. In my opinion, the interest of justice would be satisfied if the petitioners are allowed to raise such plea before the Assistant Registrar, who will be hearing the matter afresh in view of the directions given by the Divisional Joint Registrar by its order dated 6.8.2004. Order accordingly. Needless to say that if such contentions is urged the same need not be dealt with separately. The Assistant Registrar shall record his findings on this issue while passing final orders in the proceedings. With these observations the writ petition is disposed of.

(D.B.Bhosale, J.)